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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/977,521	10/12/2001	David S. Allison	0007056-0204/P6024	3955

32615 7590 04/05/2004

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EXAMINER

FOWLKES, ANDRE R

ART UNIT PAPER NUMBER

2122

DATE MAILED: 04/05/2004

6

Please find below and/or attached an Office communication concerning this application or proceeding.

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## Office Action Summary

Application No.

09/977,521

Applicant(s)

ALLISON, DAVID S.

Examiner

Andre R. Fowlkes

Art Unit

2122

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 03 September 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

**DETAILED ACTION**

1. Claims 1-18 are pending.

***Claim Rejections - 35 USC § 101***

2. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

3. Claims 7-10 are rejected under 35 U.S.C. § 101 because the claimed invention is directed to non-statutory subject matter.

The invention disclosed in claim 7 is directed to non-statutory subject matter.

While the claim is in the technological arts, it is not limited to "a practical application of an abstract idea which produced a useful, concrete, and tangible result." State Street Bank & Trust v. Signature Financial Group, Inc., 149 F. 3d 1368,1375 n. 9 (Fed. Cir. 1998).

Specifically, claim 7 is directed to a dynamically typed programming language iteration system comprising an instance of a class and an operator calling unit, configured to call a special operator of said class. This dynamically typed programming language iteration system can be interpreted to be a software program per se. Thus, Applicants fail to disclose that this dynamically typed programming language iteration system is tangibly embodied and executed by a piece of hardware and that its functions have practical applications which produce useful, concrete, and tangible results under the State Street formulation.

On this basis, claim 7 is rejected under 35 U.S.C. § 101.

Claims 8-10, which depend from claim 7, are also rejected under 35 U.S.C. § 101 for the same reasons.

***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

5. Claims 1-18 are rejected under 35 U.S.C. 102(e) as being anticipated by Daly, U.S. Patent Application Publication No. 20020138820.

Claims 1-6, are method claims corresponding to the claimed system discussed in claims 7-12, below, wherein all claimed limitations are also addressed, below.

As per claim 7, Daly discloses a method and system for incremental actions relating to notify and target models comprising: **an instance of a class** (p. 1 col. R lines

30-31, "a single instance of a ... model (i.e. class)", and p. 1 col. L lines 32-33, "a model may be a collection of objects. The objects may, or may not be of the same type"), **and an operator calling unit configured to call a special operator of said class** (p. 4 col. R. lines 59-65, "Once the associated object in notify model has been determined, the proper action to be performed is determined ... and the action determined is performed (i.e. the special operator is called)", and a operator calling unit makes the proper determinations and then calls the appropriate operator).

As per claim 8, the rejection of claim 7 is incorporated and further, Daly discloses that the **special operator returns a list of values** (p. 5 col. L lines 7-10, "(The) action operator (can perform testing on a list of objects)", and to perform such testing the action operator must be able to retrieve and manipulate the list of objects).

As per claim 9, the rejection of claim 8 is incorporated and further, Daly discloses **an iteration unit configured to iterate through said list of values** (p. 5 col. L lines 7-10, "incremental application of action operator", and the incremental application of the action operator is repeated, (i.e. iteration), when the target objects are altered again).

As per claim 10, the rejection of claim 9 is incorporated and further, Daly discloses that the **special operator is a foreach operator** (p. 5 col. L lines 7-10, "(The) action operator (can apply the action to only those target objects which have been altered)", and this demonstrates the use of a foreach operator. In this case, selective application of the action operator is exhibited foreach target object that has been altered).

As per claim 11, the rejection of claim 7 is incorporated and further, Daly discloses that the **special operator is an increment operator** (p. 5 col. L lines 10-12, "present systems require (actions) ... to be performed (on all of the objects incrementally)").

As per claim 12, the rejection of claim 7 is incorporated and further, Daly discloses that the **special operator is an decrement operator** (p. 5 col. L lines 10-12, "present systems require (actions) ... to be performed (on all of the objects incrementally)", and the objects may be stepped through incrementally, using positive or negative increments).

Claims 13-18, are product claims corresponding to the claimed system discussed in claims 7-12, above, wherein all claimed limitations are addressed in Daly (p. 6 col. R lines 16-55), as well as above. Additionally, such a product is deemed to be inherent in the Daly incremental action system, otherwise, it would be inoperative.

### ***Conclusion***

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andre R. Fowlkes whose telephone number is (703)305-8889. The examiner can normally be reached on Monday - Friday, 8:00am-4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tuan Q. Dam can be reached on (703)305-4552. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 2122

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

ARF

A handwritten signature in black ink, reading "Anthony Nguyen-Ba". The signature is fluid and cursive, with the first name "Anthony" and last name "Nguyen-Ba" clearly distinguishable.

**ANTHONY NGUYEN-BA  
PRIMARY EXAMINER**